

§ 606.4

the unemployment trust fund (UTF) as of December 31 of such year by the total wages paid workers covered by the unemployment compensation (UC) program during the 12 months ending on December 31 of such year. Final calculations are rounded to the nearest multiple of 0.01 percent.

State unemployment fund or *unemployment fund* means a special fund established under a State law for the payment of unemployment compensation to unemployed individuals, and which is an “unemployment fund” as defined in section 3306(f) of the Federal Unemployment Tax Act.

Taxable year means the calendar year.

Unemployment tax rate means, for any taxable year and with respect to any State, the percentage obtained by dividing the total amount of contributions paid into the State unemployment fund with respect to such taxable year by total wages as defined in § 606.3.

Wages, taxable means the total sum of remuneration which is subject to contributions under a State law.

Wages, total means the total sum of all remuneration covered by a State law, disregarding any dollar limitation on the amount of remuneration which is subject to contributions under the State law.

[53 FR 37429, Sept. 26, 1988, as amended at 71 FR 35513, June 21, 2006; 75 FR 57156, Sept. 17, 2010]

§ 606.4 Redelegation of authority.

(a) *Redelegation to OWS Administrator.* The Administrator, Office of Workforce Security (hereinafter “OWS Administrator”), is redelegated authority to make the determinations required under this part. This redelegation is contained in Employment and Training Order No. 1-84, published in the FEDERAL REGISTER on November 14, 1983 (48 FR 51870).

(b) *Delegation by Governor.* The Governor of a State, as used in this part, refers to the highest executive official of a State. Wherever in this part an action is required by or of the Governor of a State, such action may be taken by the Governor or may be taken by a delegatee of the Governor if the Department is furnished appropriate

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proof of an authoritative delegation of authority.

[53 FR 37429, Sept. 26, 1988, as amended at 71 FR 35514, June 21, 2006]

§ 606.5 Verification of estimates and review of determinations.

The Department of Labor (hereinafter “Department”) shall verify all information and data provided by a State under this part, and the State shall comply with such provisions as the Department considers necessary to assure the correctness and verification of such information and data. The State agency of a State affected by a determination made by the OWS Administrator under this part may seek review of such determination by a higher level official of the Employment and Training Administration.

§ 606.6 Information, reports, and studies.

A State shall furnish to the Secretary of Labor such information and reports and conduct such studies as the Secretary determines are necessary or appropriate for carrying out the purposes of this part, including any additional information or data the OWS Administrator may require for the purposes of making determinations under subparts C and E of this part.

[53 FR 37429, Sept. 26, 1988, as amended at 71 FR 35514, June 21, 2006]

Subpart B—Tax Credit Reduction [Reserved]

Subpart C—Relief From Tax Credit Reduction

§ 606.20 Cap on tax credit reduction.

(a) *Applicability.* Subsection (f) of section 3302 of FUTA authorizes a limitation (cap) on the reduction of tax credits by reason of an outstanding balance of advances, if the OWS Administrator determines with respect to a State, on or before November 10 of a taxable year, that—

(1) No action was taken by the State during the 12-month period ending on September 30 of such taxable year which has resulted, or will result, in a reduction in the State’s unemployment tax effort, as defined in § 606.21(a);

(2) No action was taken by the State during the 12-month period ending on September 30 of such taxable year which has resulted, or will result, in a net decrease in the solvency of the State unemployment compensation system, as defined in § 606.21(b);

(3) The State unemployment tax rate (as defined in § 606.3) for the taxable year equals or exceeds the average benefit-cost ratio (as defined in § 606.3) for the calendar years in the five-calendar year period ending with the calendar year immediately preceding the taxable year for which the cap is requested, under the rules specified in § 606.21 (c) and (d); and

(4) The outstanding balance of advances to the State on September 30 of the taxable year was not greater than the outstanding balance of advances to the State on September 30 of the third preceding taxable year.

(b) *Maximum tax credit reduction.* If a State qualifies for a cap, the maximum tax credit reduction for the taxable year shall not exceed 0.6 percent, or, if higher, the tax credit reduction that was in effect for the taxable year preceding the taxable year for which the cap is requested.

(c) *Year not taken into account.* If a State qualifies for a cap for any year, the year and January 1 of the year to which the cap applies will not be taken into account for purposes of determining reduction of tax credit for subsequent taxable years.

(d) *Partial caps.* Partial caps obtained under subsection (f)(8) are no longer available. Nevertheless, for the purposes of applying section 3302(c)(2) to subsequent taxable years, partial cap credits earned will be taken into account for purposes of determining reduction of tax credits. Also, the taxable year to which the partial cap applied (and January 1 thereof) will be taken into account for purposes of determining reduction of tax credits for subsequent taxable years.

[53 FR 37429, Sept. 26, 1988, as amended at 75 FR 57156, Sept. 17, 2010]

§ 606.21 Criteria for cap.

(a) *Reduction in unemployment tax effort.* (1) For purposes of paragraph (a)(1) of § 606.20, a reduction in a State's unemployment tax effort will have oc-

curred with respect to a taxable year if any action is or was taken (legislative, judicial, or administrative,) that is effective during the 12-month period ending on September 30 of such taxable year, which has resulted in or will result in a reduction of the amount of contributions paid or payable or the amounts that were or would have been paid or payable but for such action.

(2) Actions that will result in a reduction in tax effort include, but are not limited to, a reduction in the taxable wage base, the tax rate schedule, tax rates, or taxes payable (including surtaxes) that would not have gone into effect but for the legislative, judicial, or administrative action taken. Notwithstanding the foregoing criterion, a reduction in unemployment tax effort resulting from any provision of the State law enacted prior to August 13, 1981, will not be taken into account as a reduction in the State's unemployment tax effort for the purposes of this section.

(b) *Net decrease in solvency.* For purposes of paragraph (a)(2) of § 606.20, a net decrease in the solvency of the State's unemployment compensation system will have occurred with respect to a taxable year if any action is or was taken (legislative, judicial, or administrative), that is effective during the 12-month period ending on September 30 of such taxable year, which has resulted in or will result in an increase in benefits without at least an equal increase in taxes, or a decrease in taxes without at least an equal decrease in benefits. Notwithstanding the foregoing criterion, a decrease in solvency resulting from any provision of the State law enacted prior to August 13, 1981, will not be taken into account as a reduction in solvency of the State's unemployment compensation system for the purposes of this section.

(c) *State unemployment tax rate.* For purposes of paragraph (a)(3) of § 606.20, the State unemployment tax rate is defined in § 606.3. If such percentage is not a multiple of 0.1 percent, the percentage shall remain unrounded.

(d) *State five-year average benefit cost ratio.* The average benefit-cost ratio for the 5 preceding calendar years is the percentage determined by dividing the sum of the benefit-cost ratios for the 5